

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201325862
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: 02/28/2013
County: Wayne County (15)

ADMINISTRATIVE LAW JUDGE: Michelle Howie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on February 28, 2013. The Claimant appeared and testified. Participant on behalf of the Department of Human Services (Department) was [REDACTED] (FIS).

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits based on the failure to comply with the Partnership Accountability Training Hope ("PATH") program?

Whether the Department properly reduced the Claimant's food assistance benefits ("FAP") based on the PATH program non-compliance?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant as a FIP and FAP recipient was a mandatory participant in the PATH program.
2. On January 4, 2013, a Notice of Non-compliance with employment related activities was mailed to the Claimant instructing her to attend a January 11, 2013 triage. (Exhibit 3)

3. On this same date, a Notice of Case Action was mailed to the Claimant informing her that her FIP benefits would terminate effective February 1, 2013; and FAP benefits would be reduced to \$200.00 based on the Claimant's failure to participate in the PATH program. (Exhibit 5)
4. The Claimant did not attend the triage and the Department determined that good cause did not exist for the failure to participate, as required, in the PATH program.
5. This is the Claimant's second FIP non-compliance.
6. On January 22, 2013, the Claimant submitted to the Department medical documentation indicating she was unable to work or participate in the work program from January 22, 2013 thru February 22, 2013 due to back pain from an injury. (Exhibit 4)
7. On this same date, the Department received the Claimant's written request for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (January 2013), p. 1. All Work Eligible Individuals ("WEI"), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities. BEM 233A. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A. Penalties include a delay in eligibility at application, ineligibility,

or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A. Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A.

PATH participants will not be terminated from a PATH program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. Clients can either attend the triage or participate in a conference call if physical attendance is not possible. BEM 233A. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A. Good cause is based on the best information available during the triage *and* prior to the negative action date. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance or the date the client was considered to be non-compliant; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. If good cause is established within the negative action period, benefits are reinstated and the client is sent back to the work participation program. BEM 233A.

In this case, Claimant was required to participate in the PATH program. The notice of non-compliance sent to the Claimant on January 4, 2013, instructing her to attend a triage on January 11, 2013 was not returned as undeliverable by the US postal service. Claimant did not call or attend the triage. At triage, the Department determined that good cause did not exist for Claimant's failure to participate in employment related activity. On January 22, 2013, Claimant submitted medical documentation to the Department indicating she was unable to participate in employment related activity as of that date until February 22, 2013 due to back pain from an injury and attending physical therapy. The medical documentation and diagnosed condition did not pertain to, or address the previous dates that the Claimant was determined to be non-compliant with the PATH program. As a result the Department allowed the negative action to remain. Nothing in the record indicates the Claimant was prevented from participating employment related activity prior to January 22, 2013.

Accordingly, based on the evidence on record the Department established it acted in accordance with policy when it terminated the Claimant's FIP benefits and reduced her FAP benefits for the period in question.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record, finds that the Department acted in accordance with policy when it terminated the Claimant's FIP benefits and reduced the FAP benefits effective February 1, 2013.

Accordingly, it is ORDERED:

1. The Department's determination is hereby, AFFIRMED.
2. A 6-month FIP sanction is imposed from the date of closure, based upon the second non-compliance with employment related activity in accordance with department policy.

/s/ _____
Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/6/2013

Date Mailed: 3/6/2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

MH/hw

cc:

